IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

WP(C).No. 34715 of 2007(G)

AGAINST THE ORDER IN EP 58 of 2007 IN OS.163/2001 of MUNSIFF COURT, DEVIKULAM
.....

PETITIONER: IST DEFENDANT/IST JUDGEMENT DEBTOR

SMT.RAMOO, W/O.LATE THANGIAH, AGED 75 YEARS, M.P.NO.1/18, P.K.DIVISION, CHUNDAVURAI, MUNNAR P.O., K.D.H.VILLAGE.

BY ADV. SRI.N.M.VARGHESE
SRI.ROY THOMAS

RESPONDENTS: PLAINTIFF/3RD DEFENDANT/LEGAL HEIRS OF DECEASED 2ND DEFENDANT - 2ND JUDGMENT DEBTOR
----

1. M/S.TATA TEA LTD, REGISTERED OFFICE AT 1, BISHOP LEFROY ROAD, CULCUTTA AND REGIONAL OFFICE AT MUNNAR, KDH VILLAGE - 685612.

2. GUNA, S/O.LATE THANGIAH, M.P.NO.1/18 P.K.DIVISION, CHUNDAVURAI, MUNNAR P.O.,685612.

3. THANKAM, D/O.LATE THANGIAH, VELAYUDAPURAM, SAMSIKAPURAM P.O., VIA, RAJAPALAYAM, TAMILNADU STATE

4. JOSEPH RAJ, S/O.LATE THANGIAH, KUNDALAPUTHUKADI, S.P.PURAM P.O 685 617.

5. JAMES, S/O.LATE THANGIAH, KUNDALAPUTHUKADI, S.P.PURAM P.O., 685 617.

6. SAROJA, D/O.LATE THANGIAH, GEMS CAMPUS, FMBT, BIHAR.

7. PREMA, D/O.LATE THANGIAH,
ANGANVADI TEACHER, SUDARSHAN GARDEN,
SHARON BALAVIHAR SCHOOL, PSK NAGAR,
RAJAPALAYAM, TAMIL NADU.

8. TAMIL SELVI, D/O.LATE THANGIAH,
VASANTHAPURAM, THINDIVANAM,
TAMIL NADU.

9. PAUL DURAI, S/O.LATE THANGIAGH,
VALPARAI, MALAKKIPPARA, TAMIL NADU.

R1 BY S.C. SRI. JOSEPH KODIANTHARA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

==========

W.P.(C) No.34715 OF 2007

==========

Dated this the 23rd day of November 2007

JUDGMENT

This writ petition is preferred for a direction to the Munsiff's Court, Devikulam to keep in abeyance all the proceedings including delivery in E.P.No.58 of 2007 in O.S.No.163 of 2001. Learned counsel for the petitioner submits that the execution petition is filed without making all the parties and the 2nd defendant in the suit is no more and the first defendant is an aged widow unable to look after herself and therefore the execution petition filed without the junction of the legal representatives of the 2nd defendant is not executable. Learned counsel had produced before me the judgment of the court below. It would show that the first defendant was an employee of the plaintiff. She had retired and as per the rules governing the occupation of the quarters they are bound to vacate it within one month. The court directed recovery of possession from the defendants. The contention that the legal representatives of defendants 2 and 3 were not impleaded in the E.P. may not loom large because really the relationship is only between the plaintiff and first defendant and others occupying the

building are husband and children of the first defendant. So the technical objections cannot be sustained.

But, considering the fact that the first defendant is a widow now aged about 75 years, I direct the court below to defer the delivery of the property by a period of 3 weeks.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-